

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

ISABEL GARCIA

VS.

WALMART, WAL-MART STORES, INC.
AND WAL-MART STORES TEXAS, LLC

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CIVIL ACTION NO.: 5:20-CV-1411

JURY DEMANDED

DEFENDANT'S NOTICE OF REMOVAL

Defendants, Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.)¹ and Wal-Mart Stores Texas, LLC file this Notice of Removal pursuant to 28 U.S.C. § 1441, as follows:

Commencement and Service

1. On November 3, 2020, Plaintiff, Isabel Garcia commenced this action against Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC by filing Plaintiff's Original Petition with Discovery Incorporated, Rule 194.2 Requests for Disclosures, Rule 193.7 Notice of Reliance and Rule 609 Request for Notice of Criminal Convictions in the 81st/218th Judicial District Court of Frio County, Texas; Cause No. 20-11-00314CVF; *Isabel Garcia v. Walmart, Wal-Mart Stores, Inc. and Wal-Mart Stores Texas, LLC*. A copy of Plaintiff's Original Petition is attached hereto as **Exhibit A**. Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC received service of process and Plaintiff's Original Petition on November 11, 2020. A copy of CT Corporation Service of Process Transmittal and executed Citation are attached hereto as **Exhibit B**.
2. On December 4, 2020, Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC filed their Original Answer to Plaintiff's Original Petition which is attached as **Exhibit C** and Demand for Jury Trial, attached as **Exhibit D**.

¹ Wal-Mart Stores, Inc.'s name changed to Walmart Inc. on February 1, 2018.

3. This notice of removal is filed within thirty days (30) of the receipt of the Plaintiff's Original Petition which discloses that this matter involves an amount in controversy exceeding \$75,000.00, and is timely filed under 28 U.S.C. § 1446(b). This notice of removal is filed within one year of the commencement of this action and is thus timely pursuant to 28 U.S.C. § 1446(b).

Grounds for Removal

4. Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC are entitled to remove the state court action to this Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446 because this action is a civil action involving an amount in controversy exceeding \$75,000.00 between parties with diverse citizenship. **(See paragraph 1.1 of Plaintiff's Original Petition – Exhibit A).**

Diversity of Citizenship

5. This is an action between parties with diversity of citizenship.

6. Plaintiff is a resident of San Antonio, Bexar County, Texas.

7. Defendant, Walmart is not a legal entity. Walmart is a common name of the Walmart Store operated by the correct entity, Wal-Mart Stores Texas, LLC. Since Walmart is a made up common name of Wal-Mart Stores Texas, LLC and not a separate person, corporation or other legal entity, it has no separate citizenship

8. Defendant Wal-Mart Stores, Inc. (now known as Walmart Inc.) is a Delaware corporation with its principal place of business in Bentonville, Arkansas.

9. Defendant Wal-Mart Stores Texas, LLC is a limited liability company formed under the laws of Delaware, with its principal place of business in Arkansas. The sole member of Wal-Mart Stores Texas, LLC is Wal-Mart Real Estate Business Trust. Wal-Mart Real Estate

Business Trust is a Delaware statutory trust with its principal place of business in Arkansas. The sole unit holder of Wal-Mart Real Estate Business Trust is Wal-Mart Property Co. which is a wholly owned subsidiary of Wal-Mart Stores East, LP. Wal-Mart Property Co. is a corporation formed under the laws of the State of Delaware with its principal place of business in the State of Arkansas. Wal-Mart Stores East, LP is a Delaware limited partnership, of which WSE Management, LLC is the general partner, and WSE Investment, LLC is the limited partner. WSE Management, LLC is a Delaware limited liability company, and has its principal place in Bentonville, Arkansas. WSE Investment, LLC is a Delaware limited liability company, and has its principal place in Bentonville, Arkansas. The sole member of WSE Management, LLC and WSE Investment, LLC is Wal-Mart Stores East, LLC. (f/k/a Wal-Mart Stores East, Inc.), whose parent company is Walmart Inc. (f/k/a Wal-Mart Stores, Inc.). Wal-Mart Stores East, LLC is a limited liability company formed under the laws of the State of Arkansas, and has its principal place of business in the State of Arkansas. The sole member of Wal-Mart Stores East, LLC is Walmart Inc. (f/k/a Wal-Mart Stores, Inc.).

10. No change of citizenship has occurred since commencement of the state court action. Accordingly, diversity of citizenship exists among the parties.

Amount in Controversy

11. The amount in controversy exceeds the sum of \$75,000. **(See paragraph 1.1 of Plaintiff's Original Petition – Exhibit A).**

Venue

12. Venue lies in the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1441(a) and 1446(a) because the Plaintiff filed the state court action in this judicial district and division.

Notice

13. Contemporaneous with the filing of this notice of removal, Defendants will give notice of this filing to all parties of record pursuant to 28 U.S.C. § 1446(d). Defendants will also file with the clerk of the state court, and will serve upon Plaintiff's counsel and all other parties' counsel of record, a notice of the filing of this notice of removal.

Jury Demand

14. Defendants, Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC demanded a jury trial in the state court action.

State Court Pleadings

13. Copies of state court pleadings which are referenced within the Notice are attached to this Notice of Removal as **Exhibits A through D**. This case is being removed from the 81st/218th Judicial District Court of Frio County, Texas.

Exhibits to Notice of Removal

14. The following documents are attached to this Notice as correspondingly lettered exhibits:
- A. Plaintiff's Original Petition with Discovery Incorporated, Rule 194.2 Requests for Disclosure, Rule 193.7 Notice of Reliance and Rule 609 Request for Notice of Criminal Convictions.
 - B. CT Corporation Service of Process Transmittal and Executed Citation.
 - C. Defendants' Original Answer to Plaintiff's Original Petition.
 - D. Defendants' Demand for Jury Trial.
 - E. Correspondence to District Clerk requesting Docket Sheet.
 - F. District Clerk's Docket Sheet.
 - G. List of Counsel of Record.

WHEREFORE, Defendants, Walmart, Wal-Mart Stores, Inc. (now known as Walmart Inc.) and Wal-Mart Stores Texas, LLC pursuant to the statutes cited herein and in conformity

with the requirements set forth in 28 U.S.C. § 1446, removes this action from the 81st/218th Judicial District Court of Frio County, Texas.

Respectfully submitted,

DAW & RAY
A LIMITED LIABILITY PARTNERSHIP

/s/ James K. Floyd

Willie Ben Daw, III, TBN: 05594050

Email: wbdaw@dawray.com

James K. Floyd; TBN: 24047628

Email: jfloyd@dawray.com

Elizabeth W. Yancy; TBN: 24098642

Email: eyancy@dawray.com

14100 San Pedro, Suite 302

San Antonio, Texas 78232

(210) 224-3121 Telephone

(210) 224-3188 Facsimile

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and correct copy of the above and foregoing instrument has been served upon all known counsel of record in accordance with the FRCP on this the 10th day of December, 2020.

Curtis L. Cukjati
Troy "Trey" S. Martin, III
Jeffrey J. Tom
Jacob D. Cukjati
Martin, Cukjati & Tom, LLP
1802 Blanco Road
San Antonio, Texas 78212

/s/ James K. Floyd

James K. Floyd